

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF RESIDENTS OF)	
ROCKCASTLE COUNTY, KENTUCKY FOR A)	
PRELIMINARY HEARING TO DETERMINE)	CASE NO. 90-159
THE DESIRABILITY OF THE FORMATION)	
OF A WATER ASSOCIATION)	

O R D E R

On June 1, 1990, application was made by 10 residents of Rockcastle County ("Applicants") for permission to form a water association. Following the application, an investigation was made by Commission Staff regarding the engineering and economic feasibility of the proposed rural water system. On August 20, 1990, Commission Staff issued a report of that investigation. Pursuant to Commission Orders, public hearings were conducted on the application before the Commission on October 8, 1990 and February 22, 1991.

FINDINGS OF FACT

Currently, water utility service in Rockcastle County is provided by the cities of Mt. Vernon, Livingston and Brodhead, primarily to their residents but also to residents of the county living in areas easily served by these cities. In addition, the Northern Rockcastle County Water District and the Western Rockcastle Water Association, both in Rockcastle County, and to a limited extent the Jackson County Water Association in Jackson County, provide water to some residents of Rockcastle County not

served by the cities. However, there remains a large segment of the county's population that is not served by any water utility and must rely either upon wells or cisterns, or upon water delivered to them by truck, or both. The association proposed to be formed by the applicants would furnish water to those areas in the county which are not now served by existing water utilities.

There is little question that a need exists for the proposed water utility. Rockcastle County has the highest proportion of residences without indoor plumbing in the state. In the opinion of the County Judge/Executive, this is attributable to the lack of water utilities. In addition, the lack of a water utility produces a health risk to the residents who must rely upon the county's underground water for their needs. Rockcastle County is in a limestone area through which underground water migrates. A report by the Cumberland Valley District Health Department states that due to the presence of contaminants, the underground water is not bacteria free and is below acceptable standards for purposes of consumption.

The lack of access to a water utility also requires many Rockcastle County residents to purchase treated water delivered to them by truck. Water obtained in this way is expensive, costing between \$20 and \$25 for each 1,000 gallons of water delivered, the variation in cost being dependent upon the distance that the water must be transported.

The applicants, if allowed to form an association, do not intend to construct a treatment plant. Instead, they plan to purchase treated water from existing utilities providing water

service in Rockcastle County. The city of Mt. Vernon, which is centrally located in the county, would supply most of the water required by the new utility, either directly or through the Western Rockcastle Water Association and the Northern Rockcastle County Water District. The city of Mt. Vernon's water treatment plant has the capacity to produce 1.78 million gallons of water a day, and it plans to add improvements which will increase the capacity to three million gallons a day. At the present time, however, Mt. Vernon is producing 900,000 gallons a day and is under a ban by the Natural Resources and Environmental Protection Cabinet, Division of Water Services, from extending service into any new areas. This ban is applicable not only to the city of Mt. Vernon, but because the city furnishes them their water, to the Western Rockcastle Water Association and the Northern Rockcastle County Water District as well. Therefore, treated water would not be available to the proposed association from these sources until the ban is lifted.

Other sources of treated water that would also be available to the new association are the city of Livingston and the Jackson County Water Association. The city of Livingston has its own water treatment plant, but plans to discontinue its operation and purchase treated water from the Wood Creek Water District in Laurel County. Wood Creek Water District has sufficient capacity to furnish water to meet the needs of both the city of Livingston and the residents of the proposed association to be served from the city of Livingston.

Another source of water available to the new association is the Jackson County Water Association. The Jackson County Water Association presently serves some residents of Rockcastle County and its plant is capable of providing additional water to nearby residents who will be a part of the new association.

The proposed association, when formed, would construct 107.28 miles of water line to serve approximately 608 households located in 18 identifiable areas: two of those areas would receive water from the city of Mt. Vernon; seven areas would receive water from the Western Rockcastle Water Association; three areas would receive water from the Northern Rockcastle County Water District; three areas would receive water from the Jackson County Water Association; and three areas would receive water from the city of Livingston. In addition, one area would receive water either from the city of Mt. Vernon or from Western Rockcastle Water Association. Each of the utilities could serve these areas directly and are willing to extend service into them if the residents of the proposed areas bear the cost of constructing the necessary water mains and other facilities necessary to transport the water. Northern Rockcastle County Water District has, in fact, applied for a loan to serve the residents in one of the areas proposed to be served by the new association. The cost of extensions from the cities would have to be paid entirely by the new customers, but extensions from the water districts and water associations would be apportioned between the new customers and the utilities in accordance with this Commission's regulations. However, the residents of the area to be served by the proposed

association are unwilling and, in many cases, financially unable to bear those costs.

There is considerable disagreement between the Commission's investigative report and the applicants' engineer concerning the cost of construction and its ultimate impact in the form of rates upon the proposed utility's potential customers. In the investigative report, Commission Staff estimated that it would cost \$7,034,011 to construct a distribution system. Assuming that each customer contributed a service connection fee of \$250 and the balance of the construction was financed by a loan, the estimated average bill, based on usage of 4,200 gallons a month, would be \$84 per month. This is comparable to the cost of water delivered by truck at a charge of \$20 per 1,000 gallons. If the new association was able to obtain a grant for 50 percent of the total project cost, the monthly bill would be reduced to \$53 a month, or approximately \$12.65 per 1,000 gallons of water.

In sharp contrast to the Staff's estimate, the applicants' engineer has estimated the cost of construction to be considerably lower. According to him, the total cost of constructing the system would be \$3,325,000. Assuming that the proposed association could obtain a grant for half of the cost from the Farmers Home Administration and finance the remainder with a loan, the average bill for each customer, based on an average usage of 4,200 gallons per month, would be \$30 per month. The monthly rate could be reduced further if funds can be obtained from other sources such as the abandoned mine lands funds.

The estimates of cost made by the applicants' engineer and the Commission's Staff, although vastly different from each other, were both based on actual cost bids from other projects. The applicants' engineer used the bids from two projects: one in Pulaski County and the other in Clay County. The Pulaski County project consisted of additions to the water distribution system of the city of Eubanks, and the bid upon which applicants' engineer based his estimate was submitted on August 10, 1989. The bid on the Clay County project was submitted on July 17, 1990.

CONCLUSIONS OF LAW

Before the Commission may approve any application for incorporation of a water association, it must make a finding and determination of fact that the geographical area sought to be served by the proposed water association cannot be feasibly served by any existing water supplier (KRS 74.012). If the Commission finds that the area proposed to be served can be more feasibly served by an existing water supplier, then the Commission is directed by the statute to deny the application. This procedure serves to encourage consolidation of water service.

Subsequent to the first hearing held on this application on October 8, 1990, the Commission by Order of January 9, 1991 determined that insufficient evidence had been presented at the hearing to enable it to determine whether the Applicants could be more feasibly served by an existing water supplier. The Commission also found insufficient evidence to enable it to determine whether existing suppliers were unwilling to extend service to the Applicants. It therefore neither approved nor

denied the application, but scheduled another hearing for February 22, 1991 and directed the Northern Rockcastle County Water District, the Western Rockcastle Water Association, and the Jackson County Water Association to appear at the hearing to present testimony on these issues.

The Commission staff report issued August 21, 1990 concluded that existing water suppliers, located in close proximity to the areas proposed to be served by the new association, could provide the same service at lower cost and, therefore, constitute a more feasible source of water from a technical standpoint than the proposed association. All of the witnesses at both hearings, including those offered by the association, agree with this conclusion. However, even though they could provide service to the residents of the proposed association more economically than the proposed association would be able to provide service, the existing water utilities will not extend service beyond their present service areas unless, in the case of extensions by the cities, the new customers pay the cost of constructing the extensions or, as in the case of extensions from the water districts and water associations, the new customers pay their proportionate share of the cost. And although the Commission is authorized by KRS 278.260 to compel utilities under its jurisdiction to make reasonable extensions, it appears that this option is severely restricted in the present circumstances by the ban on extension of service currently in place against most of the feasible suppliers. Therefore, given the inability of the customers to finance the construction of extensions to furnish the

water from existing utilities, and the refusal of the existing utilities to furnish the service at their own expense, the issue becomes whether, from a practical standpoint, the Applicants can indeed be feasibly served by an existing water supplier. "Feasible" is defined in Webster's New World Dictionary as "capable of being done or carried out; practicable; . . . probable . . ." When the circumstances are viewed as a whole, it is clear that the formation of the proposed association represents the only means by which the residents proposed to be served by the new association will be able to obtain water service.

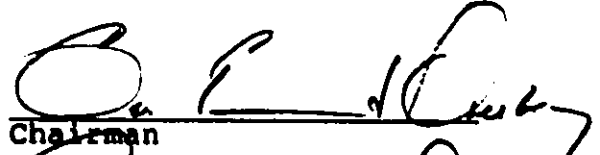
Having considered the evidence of record and being otherwise sufficiently advised, the Commission finds that the geographical area sought to be served by the proposed water association cannot feasibly be served by any existing water supplier.

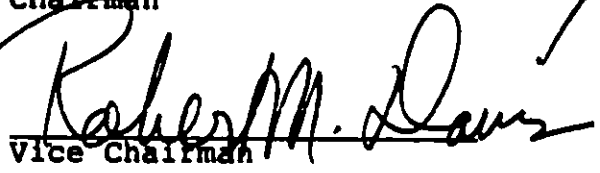
IT IS THEREFORE ORDERED that the application of the Residents of Rockcastle County, filed June 1, 1990, to create a water association is hereby approved.

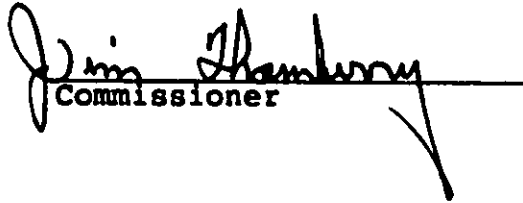
IT IS FURTHER ORDERED that the Applicants shall immediately notify the Commission if and when the proposed water association is formed, and shall comply with all statutes and regulations which require Commission approval of initial and continuing operations.

Done at Frankfort, Kentucky, this 14th day of May, 1991.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director